

Introduced by Senator Wolk

(Principal coauthor: Assembly Member Yamada)

(Coauthors: Assembly Members Arambula, Chesbro, and Galgiani)

February 27, 2009

An act to amend Section 51201 of, and to add Sections 51247.5 and 66474.5 to, the Government Code, and to amend Section 426 of the Revenue and Taxation Code, relating to agricultural land.

LEGISLATIVE COUNSEL'S DIGEST

SB 715, as introduced, Wolk. Agricultural land: Williamson Act.

(1) For purposes of the Williamson Act, a landowner is required to furnish the city or county with any information that the city or county requires in order to enable that city or county to determine the eligibility of land involved in a contract. The act defines "agricultural use" to mean the use of land, including, but not limited to, greenhouses, for the purpose of producing an agricultural commodity for commercial purposes, and "agricultural commodity" to mean any and all plant and animal products produced in this state for commercial purposes, including, but not limited to, plant products used for producing biofuels.

This bill would authorize the board of supervisors of a county to require the county assessor to send an annual survey to verify continuous agricultural income from one or more agricultural uses or agricultural commodities, in the form the board prescribes, to all owners of land under a contract, and would require the owner or owners to return the completed survey to the assessor within 60 days. The bill would define "agricultural income" to mean continuous income derived from either an agricultural use or an agricultural commodity, or both.

(2) Existing law requires the legislative body of a city or county to deny approval of a tentative map, or a parcel map for which a tentative

map was not required, if it finds that either the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use, or the subdivision will result in residential development not incidental to the commercial agricultural use of the land, where the land is subject to, among others, a contract entered into pursuant to the Williamson Act.

This bill would require the legislative body of a city or county to deny approval of a tentative map, or parcel map for which a tentative map is not required, for the proposed subdivision of land that is subject to a contract entered into pursuant to the Williamson Act, unless the legislative body finds, among other things, that the proposed subdivision will be consistent with the purposes of that act, each resulting parcel of land will be consistent with the local rules relating to that act, and the approval of the proposed subdivision does not compromise the long-term commercial agricultural use or open-space use, as specified. The bill would also authorize the legislative body to impose any reasonable and necessary restrictions on the residential use of any resulting parcel.

(3) Under existing law, if a city or county serves written notice of nonrenewal of an open-space easement contract, a Williamson Act contract, or a farmland security zone contract, with 6 or fewer years remaining on the contract upon the landowner, and the landowner makes a written notice of protest, the board of supervisors or the assessor is required to follow specified steps in assessing the annual value of the land until the contract term expires.

This bill would instead provide that if a city or county serves written notice of nonrenewal of an open-space easement contract, a Williamson Act contract, or a farmland security zone contract, and the landowner makes a written notice of protest, the board of supervisors or the assessor is required to follow specified steps in assessing the annual value of the land until the contract term expires, beginning no later than one year after the date of the notice of nonrenewal.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51201 of the Government Code is
- 2 amended to read:
- 3 51201. As used in this chapter, unless otherwise apparent from
- 4 the context, the following terms have the following meanings:

1 (a) “Agricultural commodity” means any and all plant and
2 animal products produced in this state for commercial purposes,
3 including, but not limited to, plant products used for producing
4 biofuels.

5 (b) “Agricultural use” means use of land, including, but not
6 limited to, greenhouses, for the purpose of producing an
7 agricultural commodity for commercial purposes.

8 (c) “Prime agricultural land” means any of the following:

9 (1) All land that qualifies for rating as class I or class II in the
10 Natural Resource Conservation Service land use capability
11 classifications.

12 (2) Land which qualifies for rating 80 through 100 in the Storie
13 Index Rating.

14 (3) Land which supports livestock used for the production of
15 food and fiber and which has an annual carrying capacity
16 equivalent to at least one animal unit per acre as defined by the
17 United States Department of Agriculture.

18 (4) Land planted with fruit- or nut-bearing trees, vines, bushes,
19 or crops which have a nonbearing period of less than five years
20 and which will normally return during the commercial bearing
21 period on an annual basis from the production of unprocessed
22 agricultural plant production not less than two hundred dollars
23 (\$200) per acre.

24 (5) Land which has returned from the production of unprocessed
25 agricultural plant products an annual gross value of not less than
26 two hundred dollars (\$200) per acre for three of the previous five
27 years.

28 (d) “Agricultural preserve” means an area devoted to either
29 agricultural use, as defined in subdivision (b), recreational use as
30 defined in subdivision (n), or open-space use as defined in
31 subdivision (o), or any combination of those uses and which is
32 established in accordance with the provisions of this chapter.

33 (e) “Compatible use” is any use determined by the county or
34 city administering the preserve pursuant to Section 51231, 51238,
35 or 51238.1 or by this act to be compatible with the agricultural,
36 recreational, or open-space use of land within the preserve and
37 subject to contract. “Compatible use” includes agricultural use,
38 recreational use or open-space use unless the board or council finds
39 after notice and hearing that the use is not compatible with the

1 agricultural, recreational or open-space use to which the land is
2 restricted by contract pursuant to this chapter.

3 (f) “Board” means the board of supervisors of a county which
4 establishes or proposes to establish an agricultural preserve or
5 which enters or proposes to enter into a contract on land within an
6 agricultural preserve pursuant to this chapter.

7 (g) “Council” means the city council of a city which establishes
8 or proposes to establish an agricultural preserve or which enters
9 or proposes to enter into a contract on land within an agricultural
10 preserve pursuant to this chapter.

11 (h) Except where it is otherwise apparent from the context,
12 “county” or “city” means the county or city having jurisdiction
13 over the land.

14 (i) A “scenic highway corridor” is an area adjacent to, and within
15 view of, the right-of-way of:

16 (1) An existing or proposed state scenic highway in the state
17 scenic highway system established by the Legislature pursuant to
18 Article 2.5 (commencing with Section 260) of Chapter 2 of
19 Division 1 of the Streets and Highways Code and which has been
20 officially designated by the Department of Transportation as an
21 official state scenic highway; or

22 (2) A county scenic highway established pursuant to Article 2.5
23 (commencing with Section 260) of Chapter 2 of Division 1 of the
24 Streets and Highways Code, if each of the following conditions
25 have been met:

26 (A) The scenic highway is included in an adopted general plan
27 of the county or city; and

28 (B) The scenic highway corridor is included in an adopted
29 specific plan of the county or city; and

30 (C) Specific proposals for implementing the plan, including
31 regulation of land use, have been approved by the Advisory
32 Committee on a Master Plan for Scenic Highways, and the county
33 or city highway has been officially designated by the Department
34 of Transportation as an official county scenic highway.

35 (j) A “wildlife habitat area” is a land or water area designated
36 by a board or council, after consulting with and considering the
37 recommendation of the Department of Fish and Game, as an area
38 of importance for the protection or enhancement of the wildlife
39 resources of the state.

1 (k) A “saltpond” is an area which, for at least three consecutive
2 years immediately prior to being placed within an agricultural
3 preserve pursuant to this chapter, has been used for the solar
4 evaporation of seawater in the course of salt production for
5 commercial purposes.

6 (l) A “managed wetland area” is an area, which may be an area
7 diked off from the ocean or any bay, river or stream to which water
8 is occasionally admitted, and which, for at least three consecutive
9 years immediately prior to being placed within an agricultural
10 preserve pursuant to this chapter, was used and maintained as a
11 waterfowl hunting preserve or game refuge or for agricultural
12 purposes.

13 (m) A “submerged area” is any land determined by the board
14 or council to be submerged or subject to tidal action and found by
15 the board or council to be of great value to the state as open space.

16 (n) “Recreational use” is the use of land in its agricultural or
17 natural state by the public, with or without charge, for any of the
18 following: walking, hiking, picnicking, camping, swimming,
19 boating, fishing, hunting, or other outdoor games or sports for
20 which facilities are provided for public participation. Any fee
21 charged for the recreational use of land as defined in this
22 subdivision shall be in a reasonable amount and shall not have the
23 effect of unduly limiting its use by the public. Any ancillary
24 structures necessary for a recreational use shall comply with the
25 provisions of Section 51238.1.

26 (o) “Open-space use” is the use or maintenance of land in a
27 manner that preserves its natural characteristics, beauty, or
28 openness for the benefit and enjoyment of the public, to provide
29 habitat for wildlife, or for the solar evaporation of seawater in the
30 course of salt production for commercial purposes, if the land is
31 within:

- 32 (1) A scenic highway corridor, as defined in subdivision (i).
- 33 (2) A wildlife habitat area, as defined in subdivision (j).
- 34 (3) A saltpond, as defined in subdivision (k).
- 35 (4) A managed wetland area, as defined in subdivision (l).
- 36 (5) A submerged area, as defined in subdivision (m).
- 37 (6) An area enrolled in the United States Department of
38 Agriculture Conservation Reserve Program or Conservation
39 Reserve Enhancement Program.

(p) “Development” means, as used in Section 51223, the construction of buildings or the use of the restricted property if the buildings or use are unrelated to the agricultural use, the open-space use, or uses compatible with either agricultural or open-space uses of the property, or substantially impair the agricultural, open-space, or a combination of the agricultural and open-space uses of the property. Agricultural use, open-space use, uses compatible with either agricultural or open-space uses, or the acquisition of land or an interest in land are not development.

(q) “Agricultural income” means continuous income derived from an agricultural use, an agricultural commodity, or both.

SEC. 2. Section 51247.5 is added to the Government Code, to read:

51247.5. (a) The board or council may require the county assessor to send an annual survey to verify continuous agricultural income, in the form the board prescribes, to all owners of land under a contract within the county.

(b) Upon receipt of an annual survey sent pursuant to subdivision (a), the owner or owners of land under a contract shall return the completed survey within 60 days to the assessor.

SEC. 3. Section 66474.5 is added to the Government Code, to read:

66474.5. (a) In the case of the proposed subdivision of land that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5), the legislative body of a city or county shall deny approval of a tentative map, or parcel map for which a tentative map is not required, unless the legislative body finds all of the following:

(1) The proposed subdivision is consistent with the purposes of that act.

(2) Each resulting parcel of land is consistent with the contract entered into pursuant to the act.

(3) Each resulting parcel of land is consistent with the local rules adopted pursuant to Section 51231.

(4) Each resulting parcel of land is capable of sustaining a commercial agricultural use, an open-space use, or both.

(5) Each resulting parcel of land has the agricultural improvements necessary to sustain a commercial agricultural use, an open-space use, or both.

1 (6) Each resulting parcel of land meets the productivity and
2 other requirements for inclusion in a contract entered into pursuant
3 to the act and the local rules adopted pursuant to Section 51231.

4 (7) The approval of the proposed subdivision does not
5 compromise the long-term commercial agricultural use or
6 open-space use of any of the following:

7 (A) The land that is the subject of the proposed subdivision.

8 (B) Any other land within the same agricultural preserve that
9 is subject to a contract entered into pursuant to the act.

10 (C) Any other agricultural land or open-space land within the
11 same agricultural preserve.

12 (D) Any other adjacent agricultural land or open-space land.

13 (b) If the legislative body of a city or county makes all of the
14 findings required by subdivision (a), the legislative body may, to
15 ensure compliance with the purposes of the act, include as
16 conditions in any tentative map, or parcel map for which a tentative
17 map is not required, any reasonable and necessary restrictions on
18 the residential use of any resulting parcel.

19 (c) As used in this section the following terms have the
20 following meanings:

21 (1) "Act" means the California Land Conservation Act of 1965
22 (Chapter 7 (commencing with Section 51200) of Part 1 of Division
23 1 of Title 5).

24 (2) "Agricultural preserve" means an agricultural preserve as
25 defined by Section 51210.

26 (3) "Commercial agricultural use" means an agricultural use as
27 defined by Section 51201.

28 (4) "Open-space use" means an open-space use as defined in
29 Section 51201.

30 SEC. 4. Section 426 of the Revenue and Taxation Code is
31 amended to read:

32 426. (a) Notwithstanding any provision of Section 423 to the
33 contrary, if either the county, city, or nonprofit organization or the
34 owner of land subject to contract, agreement, scenic restriction,
35 or open-space easement has served notice of nonrenewal as
36 provided in Section 51091, 51245, or 51296.9 of the Government
37 Code, and the county assessors shall, unless the parties shall have
38 subsequently rescinded the contract pursuant to Section 51254 or
39 51255 of the Government Code, value the land as provided in this
40 section.

(b) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091, 51245, or 51296.9 of the Government Code, subdivision (c) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal and the owner does protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (c) shall apply ~~when less than six years remain until the termination of the period for which the land is enforceably restricted~~ *no later than one year after the date of the notice of nonrenewal*.

(c) Where any of the conditions in subdivision (b) apply, the board or assessor in each year until the termination of the period for which the land is enforceably restricted shall do all of the following:

(1) Determine the value of the land pursuant to Section 110.1. If the land is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if it were free of contractual restriction. If the land will be subject to a use for which this code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (b).

(3) Subtract the value determined in paragraph (2) of subdivision (c) by capitalization of income from the full value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the contract, agreement, scenic restriction, or open-space easement.

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in paragraph (5) to obtain its assessed value.

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